(2) (4)

CF1002

IN THE HON'BLE HIGH COURT OF CHHATTISGARH, AT BILASPUR

W.P.(C) No. 4865/2006

PETITIONER : Smt. Reeta M. Jethani, W/o. Shri Manohar Jethani, aged about 36 years, resident of beside Hotel Kohinoor, Baans-Tall, Amardeep Talkies Road, Raipur (C.G.).

R. No. 4889-6
Presented by Shri M K Jethani
dated 4/9/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through-Secretary, Urban Administration and Development Department (Mantralaya), D.K.S. Bhawan, Raipur (C.G.).
2. Municipal Corporation, Bhilai - Through: Municipal Commissioner, Bhilai, District-Durg (C.G.).
3. Smt. Madhubala Bedi, wife of Late Manjeet Pal Singh, resident of New Khursipaar, Bhilai, District-Durg (C.G.).

EIVED-COPY
RK to A. G. BILASPUR
4-9-06

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(90)

आदेश पत्रक

मामला क्रमांक WP-4865/06 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

06.09.2006

Shri Virendra Sharma, Counsel for the petitioner.

Shri Sumesh Bajaj, Govt. Advocate for the State.

Heard on admission.

By way of this Writ Petition filed under Article 226/227 of the Constitution of India, the petitioner has prayed for quashment of the Government's order dated 18/9/2000 filed as Annexure P-1. It appears that the aforesaid order was passed by the erstwhile State of Madhya Pradesh and the directions were issued that the open lands pertaining to commercial and residential use belonging to the possession of Municipal Corporation, Bhilai admeasuring 38,000 sq. m. shall not be leased out by the Corporation until further orders by the Government. It has been mentioned that the prohibition is being made on administrative grounds.

Learned counsel for the petitioner submits that among the said specified area, some land has been encroached by respondent No.3 and respondent No.3 has entered into an agreement with the petitioner on 17/8/2005, according to which, she is ready to surrender all her rights in favour of the petitioner and she has no objection, if the land is given on lease to the petitioner. He further submits that since the prohibition has been imposed by the Government by the impugned order, agreement entered into between the petitioner and respondent No.3 is not being enforced and the petitioner is put to a loss. About setting aside the impugned order (Annexure P-1), learned counsel for the petitioner submits that the order is a harsh order, which is creating unnecessary impediment on the rights of the parties, including the petitioner, residing in the said area. He also submits that in this regard, a representation has been given by the petitioner to respondents No.1 and 2, but the same is

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also not decided by them and necessary directions be issued for decision of the said representation filed as Annexure P-12.

Writ prayed in the above nature cannot be granted in favour of the petitioner. Firstly, for the reason that the action taken by the Government in the impugned order dated 18/9/2000 is completely based upon the administrative decision taken by the government and it does not impose a complete ban regarding grant of lease under the transfer of property law, but it only imposes temporary impediment on certain internal grounds.

So far as the question of entering into an agreement between 2 private parties are concerned, certainly that agreement would not be binding on any third party including the State or the Municipal Corporation and no rights under the agreement can be enforced either against the State or against the Corporation and the Writ Petition for such an enforcement, in any manner, would not lie.

The last point is about the decision of the representation. In the opinion of this Court, the representation is not covered under any statute and the directions regarding decision of a general representation for the benefit of a party, which is not supported by statutory provisions, cannot be given.

In the opinion of this Court, there appears to be no reason to entertain this Writ Petition. This Writ Petition is dismissed in limine.

Sd/-
Sunil Kumar Sinha
Judge

(पीछे देखिये)